

LAW LIBRARY
ATTORNEY GENERAL

R75-48
75-121

May 12, 1975

James L. Schamadan, M.D.
Acting Director
Department of Economic Security
1717 West Jefferson
Phoenix, Arizona 85007

Dear Doctor Schamadan:

This is in response to a request for our opinion on the following question:

May moneys received from the United States Department of Agriculture under the Food Stamp Program after the end of the fiscal year during which the moneys were "earned" and claimed be expended during the fiscal year in which they are received, or must they be deposited in the state general fund and not be available for expenditure without a legislative appropriation?

We understand that federal matching funds under the Food Stamp Program are paid to the Department of Economic Security by the United States Department of Agriculture after expenditures have been made by the Department of Economic Security with the result that in some instances the federal moneys are received following the end of the fiscal year in which the state expenditures were made.

A.R.S. § 46-138 grants the Department authority to spend not only state appropriated moneys, but also federal moneys granted for public welfare purposes. This statute is silent as to the year in which federal moneys can be used. The balances of state appropriations lapse upon the expiration of one month following the end of the fiscal year for which the appropriations were made.

James L. Schamadan, M.D.
May 12, 1975
Page two

A.R.S. § 35-190.C. However, A.R.S. § 35-190.E provides:

Nothing in this section shall be construed to require reversion to the general fund of any balance derived wholly or partly from federal grants, earnings or other sources, and remaining in any special revenue, endowment, interest, redemption or suspense agency fund at the close of the fiscal year unless expressly so provided by law . . .

Moreover, in a recent opinion, the Arizona Supreme Court said that funds from a purely federal source are not subject to the appropriation power of the Legislature. The Navajo Tribe v. Arizona Department of Administration, ___ Ariz. ___, 528 P.2d 623 (1974) (rehearing denied January 8, 1975). Consequently, deposit in or reversion to, the state general fund of federal moneys received under the Food Stamp Program would not prevent their expenditure under the state law.

We believe, therefore, that your authority to spend Federal Food Stamp funds which are received during a fiscal year subsequent to the fiscal year in which they were "earned" and claimed is dependent upon federal law and that such expenditures would not be prohibited by state law.

We strongly recommend, however, that the Department seek the advice and approval of the United States Department of Agriculture to determine if such expenditures would in any way be violative of that Department's rules or regulations or the federal laws under which the moneys were received.

Sincerely,

BRUCE E. BABBITT
Attorney General

BEB:bat